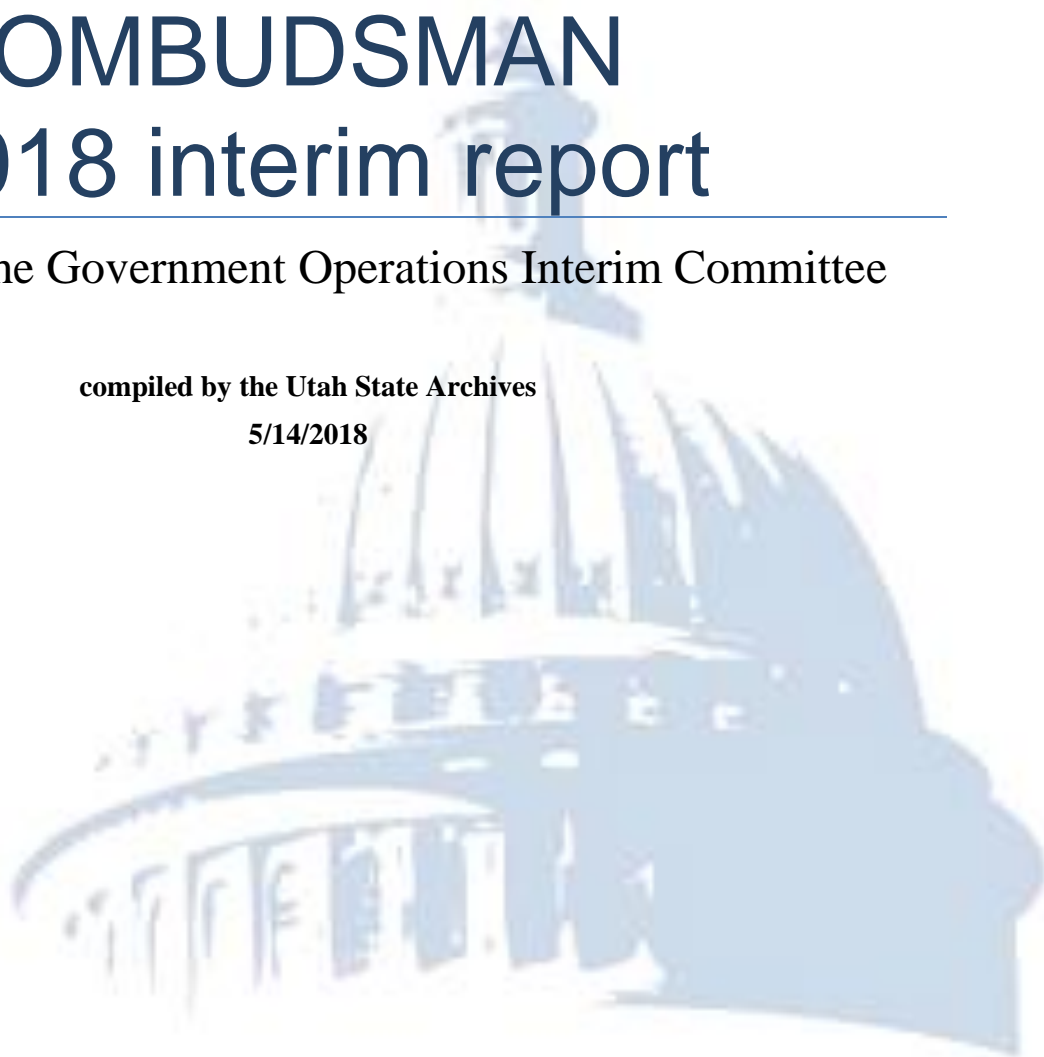


GOVERNMENT RECORDS OMBUDSMAN 2018 interim report

Presented to the Government Operations Interim Committee

compiled by the Utah State Archives

5/14/2018



This report is required by Utah Code 63A-12-111, Public Records Management Act, Government Records Ombudsman.



Government Records Ombudsman

Department of Administrative Services

Utah State Archives

May 14, 2017

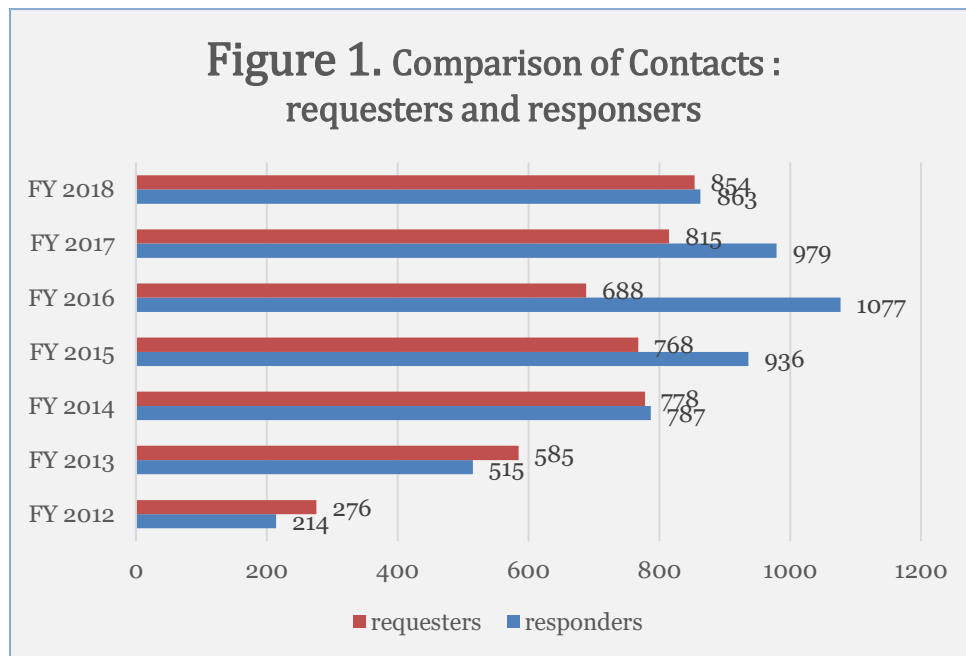
This report covers the work of the Government Records Ombudsman for the first ten months of fiscal year 2017-2018. The Government Records Ombudsman is a resource for government employees who are responding to Government Records Access and Management Act (GRAMA) requests as well as for persons who are requesting records. The ombudsman is a resource for people who are involved in an appeal of denial of requests for records or for an unreasonable denial of a request for a fee waiver. The ombudsman mediates disputes about records, primarily when the dispute is in the appeals process. The ombudsman's responsibilities are defined in [Utah Code 63A-12-111](#).

In addition to these responsibilities, the ombudsman works closely with the executive secretary for the State Records Committee. Together they provide training about GRAMA and records issues, and create online resources to educate government records officers and the public, and to promote government transparency. Beginning in July 2017, the ombudsman, Rosemary Cundiff, has also served as a member of the Utah Transparency Advisory Board, which provides oversight to Utah's transparency websites.

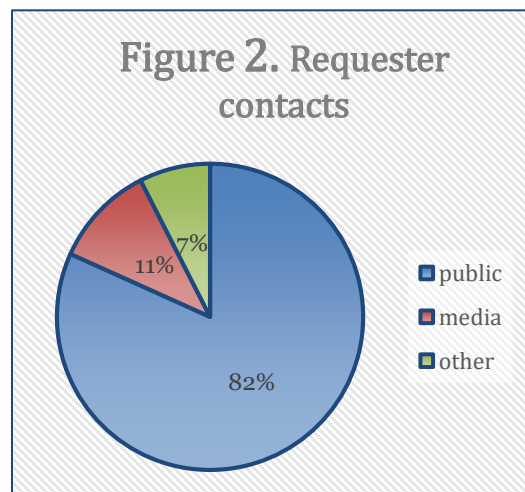
Summary of Contacts

During the first ten months of FY 2017-2018 the Government Records Ombudsman provided **1,557** consultations about issues relating to records access or mediation. Of these consultations, **854** involved requesters (the public, the media, and other non-government entities) and **863** involved responders who are employees of Utah governmental entities.

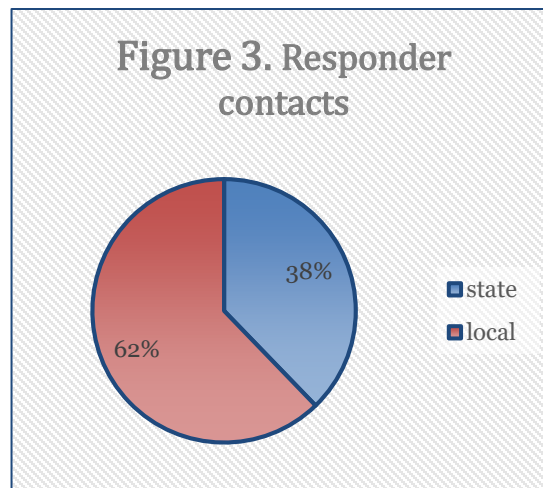
Figure 1 shows trends in Ombudsman contacts over the six years of the Ombudsman's appointment. Numbers for 2018 represent only ten months.



REQUESTERS (Figure 2): During first ten months of FY 2017-2018, the Government Records Ombudsman provided **854** consultations with records requesters. Of these, **698** were members of the public (82 percent), **92** were representatives of the media (11 percent), and **64** represented corporations, non-profits, out-of-state governments, or other entities (7 percent).

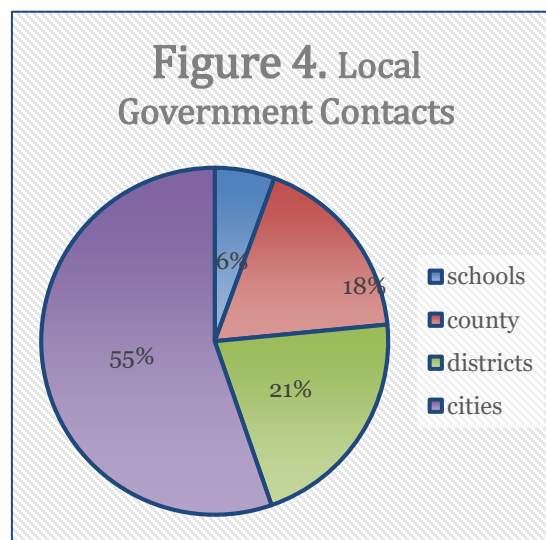


RESPONDERS (Figure 3): During first ten months of FY 2017-2018 the Government Records Ombudsman provided **863** consultations with government employees. Of these **326** represented state government (38 percent) and **537** represented local governmental entities (62 percent).



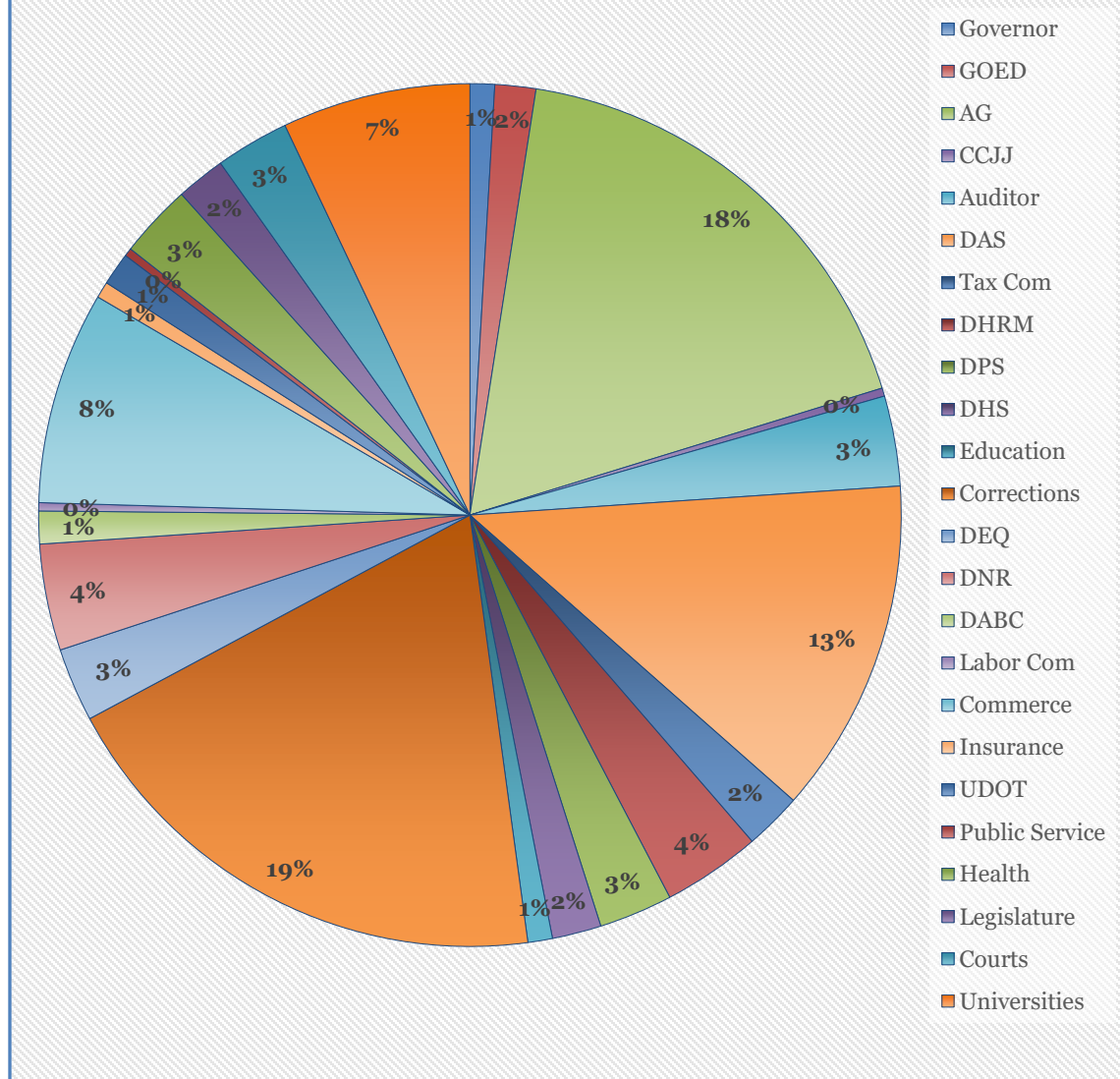
LOCAL GOVERNMENT RESPONDERS

(Figure 4): Of **537** consultations with local governments, **297** were with municipalities (55 percent), **114** were with counties (18 percent), **114** were with special districts (17 percent), and **30** were with school districts (6 percent).



STATE GOVERNMENT RESPONDERS (Figure 5): The **326** consultations with state government included 24 different state agencies. Of these the most frequent consultations were with the Department of Corrections (19 percent), the Attorney General's Office (18 percent), Department of Administrative Services (13 percent), Department of Commerce (8 percent), and Colleges and Universities (7 percent).

Figure 5. State Government Contacts



Mediation

During the first ten months of FY 2017-2018 the Government Records Ombudsman facilitated mediation between parties over records access disagreements. Of 32 mediations, 23 were resolved and 7 progressed to hearings before the State Records Committee. The outcome of one remains pending.

Table 1 displays mediation by type of entity and type of record or issue in dispute.

Table 1. Mediation Types and Outcomes

	Entities	Topic	Outcome
1	Public/Special District	Invoices	Moved to SRC
2	Public/UTA	Surveillance video	Resolved in mediation
3	Public/Department Public Safety	Fees	Resolved in mediation
4	Media/UTA	Financial disclosures	Resolved in mediation
5	Public/ Municipality	Police report	Moved to SRC
6	Public/Public Defender	Invoices	Resolved in mediation
7	Public/Special District	Email	Resolved in mediation
8	Media/Municipality	Police report	Moved to SRC
9	Public/Corrections	Police report	Resolved in mediation
10	Public/Corrections	Inmate records	Resolved in mediation
11	Public/Corrections	Personnel records	Resolved in mediation
12	Public/University	Student records	Moved to SRC
13	Public/School District	Email and fees	Resolved in mediation
14	Media/County	Email	Resolved in mediation
15	Media/Municipality	Police records	Moved to SRC
16	Public/Attorney General	Financial records	Pending
17	Public/University	Fees	Resolved in mediation
18	Media/County	Email	Resolved in mediation
19	Public/Commerce	Licensing records	Moved to SRC
20	Public/Human Resources	Personnel records	Resolved in mediation
21	Public/Municipality	Financial records	Resolved in mediation
22	Public/Municipality	Attorney client privilege	Resolved in mediation
23	Media/County	Police reports	Resolved in mediation
24	Public/School District	Email	Resolved in mediation
25	Public/Municipality	Police records	Moved to SRC
26	Public/Corrections	Inmate records	Resolved in mediation
27	Public/DAS	Financial records	Resolved in mediation
28	Corporation/Tax Commission	Policies	Moved to SRC
29	Public/Municipality	Text messages	Resolved in mediation
30	Public/Municipality	Calendar	Resolved in mediation
31	Public/Corrections	Inmate records	Resolved in mediation
32	Public/Corrections	Policies	Resolved in mediation

The most common types of records that are the subject of mediation are police reports, inmate records, and email, including text messages.

Table 2 and **Figure 6** summarize mediation success. Figure 7 summarizes the types of records that were the subject of mediation.

Table 2. Mediation Outcomes

Total resolved in mediation	23
Total moved to SRC	8
Total pending	1

Figure 6. Mediation outcomes

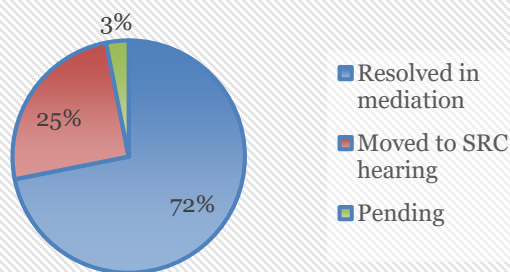
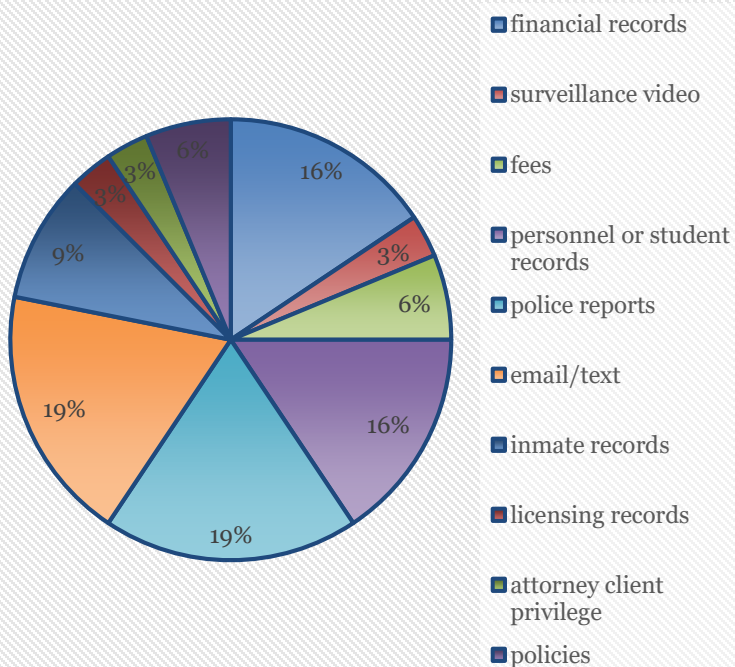


Figure 7. Mediation subjects



Ombudsman's additional activities

The Government Records Ombudsman, with help from the State Records Committee executive secretary, has provided webinars and training about GRAMA at the Archives and in various venues around the state.

The Ombudsman has been involved in an advisory capacity with the ongoing development of the Open Records Portal, which is a central location from which the public is able to make GRAMA requests to governmental entities.

The Ombudsman and other members of the Archives staff hosted the inaugural Open Records Conference during Sunshine Week in March to celebrate government transparency. This highly successful event, called “A Day of Sunshine,” attracted about 160 attendees. [Presentations](#) from that day are available on the Archives website.



Ombudsman's Observations

The creation of the position of Government Records Ombudsman is one of several Legislative initiatives in Utah that were designed to promote government transparency and easy and reasonable access to unrestricted public records, which is one of the stated intents of the Government Records Access and Management Act (GRAMA) (Utah Code Section 63G-2-102(3)(a)). The Office of the Ombudsman supports another initiative, the creation of a State Records Committee which came into being more than 25 years ago, when GRAMA became Utah's comprehensive records law. The number and complexity of appeals coming to the State Records Committee continues to increase every year. For example, in 1992 and 1993 the State Records Committee heard a total of 9 appeals. During 2016 and 2017 the Committee heard 101 appeals. The number of appeals has increased by ten times since the Committee came into being. As shown in this report, Ombudsman contacts and involvement in resolving records issues and disputes is increasing steadily as well. The Ombudsman works very closely with the Executive Secretary for the State Records Committee.

More recently the Legislature initiated the Open Records Portal which is designed to be a central online location from which the public can access government records on line and or alternately, and make GRAMA requests to many governmental entities. Over the past four years more agencies have been added to this site and the number of records requests that are being processed through the portal is increasing rapidly. The Ombudsman works very closely with the administrator of the Open Records Portal.

As they work together, the Ombudsman is a key player in what has developed into a new bureau at the Utah State Archives. The Open Records section or bureau is about government transparency and providing easy access to records. All members of the Open Records team work together to achieve this purpose, and the efficiency of the team is greater than the sum of each member in an individual capacity.

Changes in technology and the wide availability of information on line have universally increased the public's expectations about the availability of records and information. The Utah Legislature is to be commended for being forward thinking. Utah government has made significant progress in keeping pace with public expectations.

For the Open Government bureau, and the Ombudsman in particular, daily work is about working with members of the public and government employees as they navigate these relatively new possibilities, sometimes with conflicting expectations. For government employees the number of records or the amount of information which is being requested is sometimes staggering. In general, Utah should be proud of its records officers, every one, for their hard work as they step up to the public demand for records and information.

Given the rising demand for records and the ever-growing number of appeals, perhaps a Legislative look at the composition of the State Records Committee is timely. The Committee is made up of volunteers with expertise in records management as well as access. While the number of appeals has grown, the Committee's records management function is significantly reduced. Perhaps it is time to separate these functions.